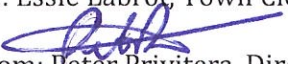


DEPARTMENT OF  
FINANCIAL SERVICES

To: Essie Labrot, Town Clerk

From:  Peter Privitera, Director of Financial Services

Subject: Request Approval of Amended Purchasing Policy and Procedures Manual

Date: November 15, 2018

In accordance with Town's Municipal Code, Section 34-2, I am submitting the attached amended Purchasing Policy and Procedures Manual for consideration by the Town Council. As far as I can determine, the existing Purchasing Manual has not been updated since the late 1980's. The amended Purchasing Manual deletes old instructions that are no longer in use, adds current procedural instructions which reflect utilization of on-line procurement policies, adds a new section outlining federal procurement requirements when utilizing federal funds (based on a recommendation from the Town's external Auditors) and recommends adjustments to purchasing limits as follows:

**Direct purchase:** (one to three quotes, depending on the commodity) recommend to increase from the current less than \$1,000 to the proposed less than \$2,500 (More reflective of the current costs of commodities.)

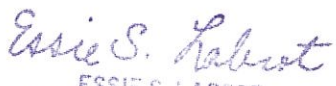
**Informal Bids:** (purchases that require at least three quotes) recommend to increase from the current over \$2,500 but less than \$10,000 to the proposed over \$2,500 but less than \$25,000. This is the most significant amendment. The Town utilizes a Term Contract or Blanket Order system whereas repetitive supplies and services are formally bid based on estimated quantities; allowing for departments to order supplies on an as needed basis or utilize services of tradesmen (electricians, plumbers, etc.) contracted for on hourly or specific per transaction basis (changing light fixtures, etc.). There are, however, very infrequent instances where tradesmen are required to perform work of an expedited nature, such as replacement of a collapsed retaining wall or excavation work, etc. that are not part of Term Contracts routinely solicited. It has been my experience that a number of these types of services have been in the \$10,000 to \$20,000 range. Unfortunately, a formal bid process takes about 6 to 8 weeks. If this amendment is approved, competitive pricing through informal written quotes can be secured and the necessary work can start within a few business days. An increase to less than \$25,000 should be sufficient to address these limited types of procurements.

**Formal Bids:** (these require sealed bids) recommend to increase from the current \$10,000 or greater to the proposed \$25,000 or greater. (This recommendation is in line with the prior increase of informal quotes to less than \$25,000).

**RFP's for Professional Services:** (currently greater than \$25,000) no change is proposed on the limit amount. The current requirement is silent regarding professional services dollar amounts less than \$25,000. The proposed new language requires at least three quotes.

Please contact me if you have any questions regarding this request.

Cc: Matthew Hart, Town Manager

ITEM NO. 25  
FILE NO. 1197  
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ESSIE S. LABROT  
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# PURCHASING POLICY & PROCEDURES

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Town of West Hartford, Connecticut  
Purchasing Division  
50 South Main Street  
West Hartford, CT 06107

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## Statement of General Policy

The Town Council, by ordinance, has established rules and regulations which will apply to purchases made by the Town (See Ordinances Article I: Purchasing). The provisions of the Charter, Sections 18-1, 18-2, 18-2.1, 18-3 and 18-4 shall control the purchasing procedure of the Town. The procedures and personnel involved in the purchasing process shall be subject to the supervision of and fall within the jurisdiction of the Director of Finance.

The Town of West Hartford intends to maintain a cost effective purchasing system conforming to best management practices. To be successful, it is the responsibility of all directors, managers, supervisors, and employees to implement and/or comply with the Procurement Code and Procurement Guideline established for the Town of West Hartford. The establishment and maintenance of a good purchasing system is possible only through cooperative effort.

The procedures outlined herein can be waived at any time if it is deemed to be in the best interest of the Town of West Hartford by either the Town Manager or the Director of Finance, provided that the waiver is in accordance with any applicable charter and ordinance requirements. Should any conflict exist between language in the Charter/Code and language in this document, the Charter/Code will be the sole determinant of allowable procurement processes.

## Purpose and Scope

The Purchasing Policy applies to the procurement activities of the Town of West Hartford. All procurement activities for the Town shall be administered in accordance with the provisions of this policy, with the express intent to promote open and fair conduct in all aspects of the procurement process.

## Objectives

The Purchasing Division is responsible for ensuring that Town departments comply with federal, state and local statutes regulating competitive sealed bids, competitive sealed proposals, professional services, high technology purchases, cooperative purchases, and emergency and sole-source purchases. The Purchasing Division solicits for all competitive procurements as required by law, evaluates bids and proposals, and with the user department makes recommendations to the Finance Director and Town Manager for awarding of contracts.

The Purchasing Division is a functional support division and should be included in all states of acquisition, through planning, ordering and receiving. Purchasing staff issues purchase orders (PO's) and bids, and/or negotiates and executes contracts to deliver goods and services in a timely manner. This is to ensure compliance with Universal Commercial Code and the Town's purchasing policies.

The Purchasing Division is committed to providing quality service through effective teamwork and communication with Town departments and vendors alike, in order to fulfill the purchasing

needs of the Town in a professional, responsive and timely manner in compliance with all Town policies and applicable Federal, State, and local purchasing laws. Public purchasing has the responsibility to obtain the most value for the tax dollar in a fair, efficient and equitable manner. To achieve this objective the Purchasing Division seeks to foster as much competition as possible. In doing so, we adopt the goal of fairness by ensuring all who wish to compete for the opportunity to sell to the Town of West Hartford can do so. In addition, all employees of the Town of West Hartford shall abide by the Town's Code of Ethics as identified in Chapter 16 of the Town of West Hartford Municipal Code.

### Procurement Code of Ethics

1. To consider, first, the interests of the Town in all transactions and to carry out and believe in its established policies.
2. To buy without prejudice, seeking to obtain the maximum value of each dollar of expenditure.
3. To strive consistently for knowledge of the materials, services and processes and to establish practical methods for the conduct of this office.
4. Observe strict truthfulness and highest ethics in all transactions and correspondence.
5. To accord a prompt and courteous reception, so far as conditions will permit, to all who call on a legitimate business mission.
6. To respect our obligations and to require that obligations to the Town be respected and consistent with sound and acceptable business practice and the "Uniform Commercial Code".
7. To counsel and assist fellow purchasing agents in the performance of their duties, whenever occasion permits.
8. To cooperate with all organizations and individuals engaged in activities designed to enhance the development and standing of the procurement profession.

### Conflict of Interest

No Town employee is allowed to participate in the selection, award or administration of a contract if that individual has a real or apparent conflict of interest. A conflict of interest would arise if the individual is engaged in the procurement process knowingly solicits pricing/proposals from immediate family members, partners, or any organization who employs or is about to employ the parties indicated herein.

### General Purchasing Guidelines

The purchasing division is responsible for organized coordination of all Town purchasing activities under the support of the Director of Finance. The purchasing division procures the highest quality and most suitable material, equipment and services for use by Town departments while considering such factors as quality, delivery, lowest overall cost, and liability. In accordance with the Town Charter, unless otherwise prescribed by law, the Purchasing Agent shall take

advantage of all prudent purchasing methods and opportunities available in the marketplace. This includes, but is not limited to, such methods as competitive sealed bids, competitive sealed proposals, sole-source procurement, purchase procedures, Pcard procedures, emergency purchases, use of cooperative purchasing plans and public auctions.

### Use of Procurement Credit Cards (Pcard)

The Pcard program is administered by the State of Connecticut and is a means to utilize Town issued credit cards through a credit card provider in order to provide a cost effective procurement methodology to obtain designated goods and services. The process allows for immediate access to required purchases as well as significantly reduces administrative costs across the organization. The Purchasing Agent or his/her designee shall be the Credit Card Administrator and will be responsible for cardholder application, approval card distribution, spending limits per card, card cancellation, dispute resolution and the establishment of a process for payment and invoice procedures. The card custodian is the person the cardholders directly report to. This individual will have responsibility to ensure proper usage of the card and will also have responsibility to review and certify monthly statements to the Program Administrator.

On a periodic basis, the Program Administrator shall perform a credit card inventory of all credit cards issued to Town employees by department. A report shall be prepared and forwarded to the Purchasing Agent of the results of this inventory. Should any employee lose or have their credit card stolen, it should be immediately reported (within one day) to the Program Administrator and to the credit card provider at (800) 316-6056. The employee shall provide the Program Administrator with a written or electronic explanation with all information associated with the loss.

Credit cards are issued to individual employees/departments. If an employee terminates employment or transfers to another department, the department credit card administrator is responsible to notify the Program Administrator who will cancel the credit card.

### Blanket/Term Contracts

Prior to and during each fiscal year, the Purchasing Division will bid various and sundry items that are repetitive in nature and may be utilized by a number of Town Departments. This process allows the departments to directly purchase from the vendors awarded the contracts rather than soliciting for the same supplies and materials on a repetitive basis during the fiscal year. This type of purchasing provides for procurement over a defined period of time. Prices may be fixed or may be based upon wholesale or list price minus a specific discount. This process eliminates the need for departments to order a full year's supply of materials by allowing them to order on an as needed basis. The procurement method for these types of contracts is based on the annual dollar value of the total town wide procurement.



## On Call Professional Services Contracts

On call professional services contracts are used in situations where small renovation/construction projects require professional services such as engineering or architectural. The Town will issue an RFQ and identify a pool of acceptable firms by profession that can be utilized by Town departments when the need arises. Depending on the size of the response and pools established, the requesting departments will have the authority to purchase services with accepted firms as long as the cost does not exceed \$25,000. Any service that is projected to exceed \$25,000 must follow for the formal RFP/RFQ process. Departments should contact multiple firms in the individual professional pools to determine who is best suited to provide the service and who is proposing the overall best value to the Town.

## Requisitioning

All requisitioning shall be electronic unless approved by the Purchasing Agent. Requisitions must be submitted for all goods and services, unless purchases are made from a Pcard or as a direct voucher. The requisition must be approved by the appropriate department director or authorized designee. As the Town is currently in the process of implementing a new financial management software system, the requirements of that system will determine the specific process. Once determined, the Purchasing Agent will issue a supplement to this document and notify all departments of the specific requisitioning process.

## Procedures for Purchases less than \$2,500

These purchases do not require public advertisement or formal bid procedures and are administered by the Purchasing Division. Operating agencies are strongly encouraged to do their own quoting. If necessary, Purchasing will quote items for an operating agency. A Purchase under \$2,500 may be made either through a purchase order (PO) process or via the Town's Procurement card (Pcard) Program (there is a \$2,000 transaction limit unless a higher limit is approved by the Purchasing Agent) or direct voucher.

The PCard should be used to purchase the following items:

- Blanket Order/Term Contract goods from the approved vendors at the agreed upon price
- Subscriptions
- Travel expenses
- Miscellaneous supplies
- Minor job related expenses

In no case should the PCard be used for the following;

- Personal purchases
- Cash advances
- Lease or rental of large equipment
- Blanket Order/Term Contract goods from other than the approved vendor

- Anything requiring insurance or a contract to be signed
- Sales tax
- Anything which violates existing collective bargaining agreements
- Gasoline
- Repeated purchases from a "one-time vendor"

It is appropriate to use direct vouchers in the following circumstances:

- Blanket Order/Term Contract goods from the approved vendors at the approved prices- up to \$25,000
- Refunds of revenue
- Subscriptions
- Reimbursements
- Utilities

Direct voucher should not be used for the following:

- Blanket order/Term Contract goods from other than the approved vendor or not at the proper price
- Out of State travel that has not been pre-approved by Town Manager
- Sole source items
- Any sales tax
- Any item that could have been bid
- Items costing more than \$25,000 for both Blanket Order/Term Contract items and other purchases

### Procedures for Purchases of \$2,500 to \$25,000

For purchases of items between \$2,500 and \$25,000, operating agencies must obtain a minimum of three written/electronic price quotations from vendors. A vendor's refusal to submit a quote qualifies as one of the three required quotes. A Purchase Order is required for such items and the operating agency is required to submit a written quotation along with the Requisition for Purchase Order to Purchasing. The electronic Requisition will be approved by the Purchasing Division and then will be converted into a Purchase Order. No items shall be ordered until the Purchase Order has been approved. In general, a Purchase Order should be considered the Town's primary procurement form.

All Requisitions for Purchase Orders must be electronically approved or Request for Payment forms must be signed by Department /Division heads or their designee(s) to ensure timely processing.

Items that require a Purchase Order:

- Any Sole Source or Brand Name item: written justification for the need for either purchase must accompany the requisition for a purchase order. Approval must be granted by the Purchasing Agent before the item can be ordered.
- For purchase of items from \$2,500-\$25,000 a minimum of three quotes should be attached to the requisition with the vendor preference noted. If the preferred vendor is not the lowest quote, a written explanation should be included.

If using a State of Connecticut contract or other cooperative bid(s), requisition must have documentation of correct pricing attached.

### Procedures for Purchases over \$25,000

All purchases such as supplies, materials, equipment rental, etc. and trades service or construction projects, with a value of greater than \$25,000, will be procured by the Purchasing Division of the Department of Financial Services through a formal bid solicitation. All Blanket/Term Contracts will also be bid through a formal process if the aggregate Town wide amount for the fiscal year exceeds \$25,000. The use of state or cooperative bids is allowable as long as a competitive process by the organization is utilized.

### Preparing Bid Specifications

The Purchasing Division is responsible for reviewing, modifying, assisting in the preparation of, and approving bid specifications prior to public distribution. No procurement activities covered in this section shall take place without the Purchasing Division's direct involvement or ultimate approval. Throughout the formal procurement process the Purchasing Division will be the lead.

A cooperative effort between the Purchasing Division and the ordering department is required in developing specifications. The ordering department is responsible for preparing and formulating technical specifications. When properly put together, a specification should:

1. Be clear and concise;
2. Be competitive and non-restrictive and still meet the Town's needs;
3. Insure product or service will perform it's designed function at the lowest cost;
4. Maximize the number of bids received from qualified bidders.

When brand names are used to assist in the identification of the type of good(s) desired, the specification must include a detailed identification of the pertinent characteristics. Specification should clearly state "or equivalent to" the brand name being specified within the specifications.

### Authority/Approval Process

The Director of Finance, through the Purchasing Agent, directs the purchasing program through its Purchasing Division and has responsibility to purchase and oversee the materials, equipment, supplies and services necessary for the proper and efficient operation of the Town and its departments.

1. All Town purchases or contracts, including contracts for service, or any commitment for any purchase or contract, including contracts for service shall be reviewed and approved by the Risk Manager for insurance requirements. Proof of insurance, in amounts and types specified by the Town, may be required depending upon the type of work and hazards involved. If required, proof of insurance must be provided by submitting a standard "ACORD" from which must evidence the types and amounts of insurance required in the bid specifications. The Town of West Hartford shall be named as additional insured on all policies and a minimum thirty day notification of policy cancellation is required. Bonding and insurance requirements must be met prior to execution of the contract.
2. For professional and service related contracts, the final scope of work, fee and contract is negotiated with the selected firms and sent to the Town Attorney's office for review and approval. Once the Town Attorney's office has approved the contract as to form and legality, it is sent to either the Town Manager or the Purchasing Agent for execution; in accordance with the Town's municipal code requirements.
3. With the exception of the Board of Education, no officer or employee of the Town shall make any purchase or any contract, including contracts for service, or any commitment for any purchase or contract, including contracts for service, until the Director of Finance certifies that there is a sufficient unexpended and unencumbered balance of the appropriation against which the expense is to be charged.

## Bid Announcements & Bidder List

The Purchasing Division produces and maintains a Master Vendor List\*. This list includes current names and addresses of vendors interested in doing business with the Town. All requests by vendors to be placed on a bid list will be honored except from those vendors who have previously defaulted on Town business or are otherwise known to be less than reputable. All formal bids with a value of \$25,000 or more, are published in at least one local newspaper having a general circulation in the State of Connecticut at least 10 days before the bid is due (in the Public Notice section). A listing of all current bid solicitations is also posted online at the State of Connecticut portal:

[https://biznet.ct.gov/SCP\\_Search/Default.aspx](https://biznet.ct.gov/SCP_Search/Default.aspx) (To register for access)

<https://biznet.ct.gov/AccountMaint/Login.aspx> (To review all posted bids)

[https://www.westhartfordct.gov/gov/departments/purchasing/bid\\_list.asp](https://www.westhartfordct.gov/gov/departments/purchasing/bid_list.asp).

*\*Please note: The Town is currently in the process of implementing a new financial management system which will include a purchasing module. It is the intent of the Purchasing Division to create a Master Bidders List to integrate into that module, however, until such time as this new system is fully implemented, the Master Bidder's List may not be accurate and cannot be properly maintained.*

## Bid Forms and Specifications

All Bid forms and specifications are available on the Town of West Hartford Purchasing website: [https://www.westhartfordct.gov/gov/departments/purchasing/bid\\_list.asp](https://www.westhartfordct.gov/gov/departments/purchasing/bid_list.asp)

The intent of bid specifications is to define the quantity and type of merchandise or service the town has determined is necessary. Specifications are not meant to be exclusionary and products equal to those specified will be considered unless a valid reason prevails. Brand names are used only to establish the type or grade of product. It is the vendor's responsibility to prove that his product is equal to that specified. All specifications should be read carefully. Deviations may result in rejections of a bid. Ambiguities in the specifications should be brought to the attention of the Purchasing Division, whose interpretation is final. The standard 'Instructions to Bidders' section of the invitation to bid form should also be carefully examined.

## Bid Addenda sheets

On certain bids, it may be necessary to modify specifications after they have been sent to potential bidders. In such cases an addendum shall be posted on the Town's website. All addendums shall be included as an integral part of the bid document and should be reflected in the bid offer.

## Submission of Bids

Whenever bids are solicited, a date, time and room number is established for the receipt of bids. Vendors must manually submit or mail their quotations to the Purchasing Division before that time. Quotations are time and date stamped as proof of receipt. Bids arriving after the deadline are returned unopened to the vendor as late bids and shall not be considered.

Formal bids (\$25,000 or more), which must bear the notation "Bid #", are publicly opened in a pre-established location by the Purchasing Agent or his designated representative, and one witness. Bids are informally tabulated and the apparent low bidder is identified, pending a complete examination of all bids. After a formal examination of the bids to verify totals and compliance with specifications, a formal bid tabulation, with the ranking of all bidders is made available for public inspection and will be posted on-line at the Town Purchasing website as well.

Upon implementation of the Town's new financial management system, the Town may choose to accept on-line bids. If that process is allowed by the Purchasing Agent, detailed instructions related to delivery, recording of bids and a review of all required documents will be included as a supplement to this document and will be made available to all prospective bidders. Until such time as on-line bidding may be allowed, please carefully review bid submission requirements in the bid solicitation documents.

## Bid Evaluation and Award

According to code 18-2 Purchasing Agent; solicitation and award procedures; the Purchasing Agent shall award a contract to the vendor who offers the best value to the Town. Best value

shall be determined by consideration of the following factors as deemed appropriate by the Purchasing Agent:

- (1) The quality, availability, adaptability and efficiency of use of the products and services to the particular use required.
- (2) The degree to which the provided products and services meet the specified needs of the Town, including consideration, when appropriate, of the compatibility with and ease of integration with existing products, services or systems.
- (3) The number, scope and significance of conditions or exceptions attached or contained in the bid and the terms of warranties, guaranties, return policies and insurance provisions.
- (4) Whether the vendor can supply the product or service promptly, or within the specified time, without delay or additional conditions.
- (5) The competitiveness and reasonableness of the total cost or price, including consideration of the total life-cycle cost and any operational costs that are incurred if accepted.
- (6) A cost analysis or a price analysis, including specific elements of costs, the appropriate verification of cost or pricing data, the necessity of certain costs, the reasonableness of amounts estimated for the necessary costs, the reasonableness of allowances for contingencies, the basis used for allocation of indirect costs and the appropriateness of allocations of particular indirect costs to the proposed contract.
- (7) A price analysis involving an evaluation of prices for the same or similar products or services. Price analysis criteria include, but are not limited to price submissions of prospective vendors in the current procurement, prior price quotations and contract prices charged by the vendor, prices published in catalogues or price lists, prices available on the open market and in-house estimates of cost.
- (8) Whether or not the vendor can supply the product or perform the service at the price offered.
- (9) The ability, capacity, experience, skill and judgment of the vendor to perform the contract.
- (10) The reputation, character and integrity of the vendor.
- (11) The quality of performance on previous contracts or services to the Town or others.
- (12) The previous and existing compliance by the vendor with laws and ordinances or previous performances relating to the contract or service or on other contracts with the Town or other entities.
- (13) The sufficiency, stability and future solvency of the financial resources of the vendor.

(14) The ability of the vendor to provide future maintenance and service for the use of the products or services subject to the contract.

(15) If the apparent low bids received are for the same net total amount or unit price, the quality and service being equal and no evidence of collusion, the contract shall be awarded to a vendor having his or her or principal place of business located in West Hartford (local vendors). If there is a tie between local vendors, the bid shall be awarded by a coin toss administered by the Purchasing Agent.

## Purchase Orders

Once a decision is reached as to the vendor who is awarded the bid, a purchase order will be produced. As with the requisitioning process, the specific procedure will be included in this document as a supplement once the Town completes the installation and training on a new financial management system. The Purchasing Agent will notify all departments of the process when appropriate.

## Purchase Order Supplements

On many occasions and for various reasons, it may be necessary to slightly modify, add or delete items on purchase orders. Reasons for these changes could be shipping changes, a price adjustment that is favorable to the Town, a slight increase or decrease to the quantity required, etc. These types of modifications must be minor in nature. Departments are required to notify the Purchasing Agent of these proposed changes in advance.

For construction type projects, it is understood that unforeseen job conditions may require the issuance of change orders to the original contract amount. If the change order requested is for work that is similar in nature to the overall project intent or is to address one particular component of the overall project, the department must provide the Purchasing Agent with information that supports the request. In general, change orders of this type are limited to a 15% increase of the initial contract amount. The Purchasing Agent may increase that amount if he/she feels that there is sufficient reason to allow for the additional work. A change order may not be used to expand the scope of a contract.

## Delivery Dates

Each bidder shall state explicitly the number of days required for delivery of goods or completion of services after notification of award. The time required for delivery is essential and may be an important factor in determining the award of a contract.

## Terms

Each bidder shall stipulate on the Bid Forms its payment terms or any offer of a discount for prompt payment of an invoice. Discounts may be applied to the corresponding bids in determining the lowest responsible bidder if it is advantageous for the Town to do so in

accordance with predetermined criteria. Discounts for prompt payment can be a decisive factor in determining the successful bidder.

### Delivery of Goods

In all cases, prices quoted shall include shipping costs to the appropriate F.O.B. destination address unless otherwise specified. All deliveries shall be inside unless specified. Merchandise shipped to the wrong address will be refused. It is the responsibility of the vendor to insure delivery to the address specified on the order. Shippers should have complete delivery information to insure the expeditious shipment of merchandise to the appropriate Town agency. Such information should include appropriate Town department name, room numbers, and Town of West Hartford employee contact if applicable. The purchase order number must appear on all delivery tickets and on the package if not delivered loose. Failure to meet the specified delivery date may constitute a breach of contract and cancellation of the order.

### Taxes and Fair Trade Exemption

The Town is exempt for all Federal, State and local taxes as well as all fair trade restrictions. Tax exemption forms shall be provided to the vendor.

### RFP (Request for Proposal)

This process will be employed for the procurement of professional services. Professional services are defined as services of a consulting nature or services that require the creation of a formal plan, design or are of a specialized nature. Examples are: Architects, Engineers, Legal Counsel, Actuarial Services, Auditing Services, etc. Any professional service with an estimated cost of \$25,000 or more must be procured through a formal RFP solicitation process. Any professional service with an estimated cost of less than \$25,000 must include at least three written quotes for that particular service; in the same manner as a commodity/service purchase.

This procurement device facilitates a formal negotiation process (in terms of both price and the proposed method of project completion) following the opening of sealed proposals.

The format of the RFP may vary depending on the technical nature of the project. However, the following sections are generally considered standard for inclusion:

A. General Requirements/Information. This section will identify the general requirements that must be met to comply with the RFP submission requirements, including the format in which the response is to be submitted such as the due date, time, location where the proposal must be delivered and packaging of the response and any additional requirements such as insurance or copies of licensing.

B. Scope of services expected to be provided by the selected firm. This section explains the nature of the project and those specific responsibilities that shall be borne by the successful firm (i.e., administrative oversight, making recommendations for process improvement, drafting



plans, etc.). The section may also refer to attachments and exhibits such as technical specifications, etc.

C. Proposal format details. Information about the firm and its proposed course of action is generally detailed here. This may include narrative regarding the uniqueness of a particular project approach, reasoning in support of a particular firm selection, references and examples of related project work.

D. Selection and award process. Proposals are to be reviewed by a Selection Committee chaired by the Purchasing Agent or his/her designee. Depending on the number of proposals received, the Selection Committee may create a short list based on the quality of the proposals received and invite those firms in for a formal presentation and subsequently make a final selection. The Selection Committee may also choose to make a selection based on the weight of each proposal and invite the selected firm in for a formal presentation as well. If State or Federal Grant funding is involved with the purchase then the number of minimum firms as stated within the grant requirements are to be interviewed. Said firms are then granted an interview and an opportunity to make a presentation before the committee. Evaluation of proposals received should be based on selection criteria established in the RFP. When appropriate, criteria and ratings should be of a quantitative measure to ensure a fair and open process.

E. Fee proposals. As per proposal specifications, fee quotations are either made on a lump sum basis or pursuant to an hourly rate schedule and identify all deliverables the fee will cover.

F. The solicitation process should include a list of recommended vendors by the requesting department along with vendors on file with the Purchasing Division. Public advertisements for RFP's shall follow the same manner as identified under formal advertised bids.

## Request for Qualifications (RFQ)

This process is employed in circumstances where the Town has a general idea of what professional service it needs but does not have the level of detail required to solicit specific proposals. In these cases, it is difficult for responding firms to submit a price proposal, since there is less specificity from the Town related to the actual work to be performed. It is also used to gauge the ability and experience of responding firms to produce the required service.

The solicitation process mirrors the RFP process, but without the initial pricing component. The process, in general terms, will include information on what the Town hopes to achieve, but the roadmap on how to achieve that goal will be determined by the responding firms. One example is the hiring of an Architectural Firm to design a building. The Town will have a good understanding of the proposed use of the building, but the actual vision/design will rest with the Architect.

The RFQ process will start with a solicitation similar to an RFP where qualifications are received and reviewed by a Selection Committee chaired by the Purchasing Agent or his/her designee.

The Selection Committee will review the firm's ability to perform the project (including committed resources), similar projects that have been completed and the experience of the design team in meeting the needs of the Town. The Selection Committee may create a short list and request those firms to present a concept of their design, including the rationale behind their design, the estimated cost of construction of the building and their proposed fee for the design or the Selection Committee may create a short list based on consultant qualifications only, then pursue pricing options. This allows the Selection Committee more flexibility to review various options and then decide on which consultant option to pursue. Once the consultant is selected, the Town will begin a negotiation process on actual price and deliverables. This process allows for more flexibility in cases where the Town may have a general idea of what type of service it requires but lacks the level of detail responding firms require to submit initial price proposals.

### Sole Source Procurement

It is the policy of the Town to encourage fair and practicable competition consistent with obtaining the best possible value for the necessary products and services required by the Town. Since the use of sole source procurement or a brand name specification is restrictive, it may be used only when the Purchasing Agent makes a written determination that there is only one practical source for the required product or service or that only the identified brand name item or items will satisfy the Town's needs and the Town Manager concurs with such finding.

- (1) A requirement for a particular brand name does not justify a sole source procurement if there is more than one potential vendor for that product or service.
- (2) Any request by a using agency that procurement be restricted to one potential contractor or be limited to a specific brand name shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.
- (3) A record of all sole source procurements and brand name specifications shall be maintained. Sole source records shall list each contractor's name, the amount and type of each contract, a listing of the products or services procured under each contract and the effective dates of the contract. Brand name records shall list the brand name specification used, the number of suppliers solicited, the identity of these suppliers, the supplier awarded the contract and the contract price. The Purchasing Agent shall prepare a report on sole source purchases to be submitted to the Town Council at the end of each fiscal year.

### Emergency Purchases

Purchases of goods and services in an emergency, which are made to protect the Town from loss, shall be made through the Finance Department with the approval of the Town Manager.

All such purchases must be confirmed by an electronic Requisition for a Purchase Order by the end of the first working day after the purchase is made. All such Purchase Order requests shall have attached to them a signed statement explaining the nature of the emergency as it relates to the purchase.

Extreme care must be taken in the use of this particular provision, for it is not to be used as a method of evading the purchasing function. Improper use of this procedure will result in the return of the Purchase Order request and invoice paperwork to the department involved.

Valid emergencies are those that occur as a result of the breakdown of equipment which must be kept in operation to maintain the public's safety or health, or whose breakdown would result in the disruption of Town operations. When this situation occurs, the department shall contact the Purchasing Division and conduct the procurement of supplies and services in accordance with the Purchasing Manual.

## State Contracts and Cooperative Purchases

Cooperative purchasing occurs when two or more governmental entities coordinate some or all purchasing efforts to reduce administrative costs, take advantage of quantity discounts, share specifications, and create a heightened awareness of legal requirements. Cooperative purchasing can occur through inter-local agreements, state contracts, piggybacking, and joint purchases.

The Purchasing Division shall take advantage of the following types of cooperative purchases when deemed to be in the Town's best interest:

- True Cooperatives
- Piggybacking
- Third Party aggregators
- State of Connecticut contracts
- Other State's contracts

The Town shall also employ the following checklist for guidance and due diligence when using Cooperative Contracts:

- Was the contract solicited by a public or a non-profit agency;
- Was the contract competitively bid;
- Do you have copies of all the documents;
- Was the award consistent with public procurement policies;
- Are the award terms and conditions acceptable;
- Did the bid contain preferences that your entity cannot use;
- Did the bid have any required preferences for your entity;
- If the project involves a grant, are the terms of the grant met;
- Is the award still valid;
- How many years are left on the award;
- Are the ordering procedures acceptable;
- Are the payment procedures acceptable;
- Is the price good;

## Procurement Requirements When Using Federal/State Funds

When the Town receives a grant for Federal/State Funds for a specific project, the Town will comply with all of the Federal/State regulations that are required for the proper solicitation, contract award and final expenditure of those funds. The Town recognizes that Federal/State procurement requirements may vary depending on the funding source, however, the Town commits to adhering to those requirements throughout the procurement and expenditure of funds process. As stated in the "Checklist for guidance and due diligence when using Cooperative Contracts", if a Town project involves a grant, every effort will be made to ensure the terms of the grant are met.

Regarding Federal funds, on June 20, 2018, Federal Office of Management and Budget issued OMB memorandum M-18-18; "Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance," to implement the effect of the National Defense Authorization Acts (NDAA) of 2017 and 2018 on the procurement micro-purchase and simplified acquisition thresholds under the Uniform Guidance. The memorandum issued is intended to provide guidance to the federal agencies in carrying out the increase in thresholds. It also addresses the timing of when recipients of existing federal grants and contracts can apply the threshold changes as described in the memorandum.

The memorandum also states that increases to the micro-purchase threshold to \$10,000 and the simplified acquisition threshold to \$250,000, for all recipients of federal grants and contracts, are effective upon the issuance of the OMB memorandum—the date appearing on the memorandum is June 20, 2018. It instructs agencies to apply this exception to all recipients, and recipients should document any change based on this exception in accordance with Section 200.318, "General Procurement Standards," of the Uniform Guidance. The Town of West Hartford utilized the three year grace period and deferred the application of these requirements until June 30, 2018; in accordance with the Uniform Guidance provisions.

For purchases made with Federal funds, the relevant procurement sections (attached as OMB Guidance and OMB Memorandum) are: 200.318 to 200.326. and OMB M-18-18.

## Surplus Sales

In accordance with the Purchasing Ordinance, the Purchasing Agent has the authority to transfer, sell, or dispose of surplus, obsolete, or unused supplies, materials and equipment. This is usually accomplished by either sealed bids or online auction. Surplus sales are publicly advertised on the website and items are sold to the highest bidder.

## Equal Opportunity Procurement

It is the Town of West Hartford's policy to carry out its procurement activities on a completely non-discriminatory basis. The Town encourages all qualified small, minority and women owned businesses to participate in the competitive bidding process and also encourages these vendors

to contact the Purchasing Office so they may be included in the Town's vendor file and appropriate bid lists.

## Insurance Requirements & Bonds

Depending on the type of purchase or contract involved, the Town may require the successful contractor to submit a certificate of insurance. This certificate of insurance must name the Town as additional insured and provide coverage for any legal liability which may arise during the contractor's execution of his contract, as required by the Town's Risk Manager. Insurance certificates are generally requested for construction and service related projects. The Purchasing Division maintains a file of insurance certificates for contractors doing work for the Town.

Bid, performance and payment bonds are required for any service contract which exceeds \$50,000 for which a lack of performance would result in financial loss to the Town. The need for bonding, its form and required amounts vary and are determined as circumstances warrant. Contracts which most frequently require bonds are construction and service contracts. The Purchasing Division will decide when it is appropriate to include insurance and bonding requirements in the specifications.

## Prevailing Wage Laws

Connecticut's prevailing wage law is codified in Connecticut General Statutes Section; Section 31-53 and 31-53a. The law applies to each contract for the construction, remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project by the State or its agents, or by any political subdivision of the State.

Coverage: Conn. Gen. Stat. Section 31-53(g) provides monetary thresholds which must be met before the law is applicable. The prevailing wage law does not apply where the total cost of all work to be performed by all contractors and subcontractors in connection with new construction of a public works project is less than one million (\$1,000,000) dollars. The prevailing wages law does not apply in connection with remodeling, refinishing, refurbishing, rehabilitation, alteration or repair of any public works project under one hundred thousand (\$100,000) dollars. These statutes can change over time. It is the responsibility of the requesting department to periodically check the following website of verify that no changes have been made:

<http://www.ctdol.state.ct.us/wgwkstnd/prevailwage.htm>

Prevailing Rate: The prevailing rate consists of a base rate and a fringe benefit rate which may be paid in cash or benefits. Conn. Gen. Stat. Section 31-53(d) permits the Labor Commissioner to adopt and use the prevailing wage rate determinations as have been made by the Secretary of Labor of the United States under the provisions of the Davis-Bacon Act, as amended. The agent empowered to let such contract shall contact the Labor Commissioner at least ten, but not more than twenty days, prior to the date such contracts will be advertised for bid, to ascertain the proper prevailing rate. Under Connecticut General Statutes, 31-55a the rates will be adjusted

annually on or before July 1st of each year. These new rates will be on the Department of Labor website.

## Ordinances Article I: Purchasing

<https://ecode360.com/7292828>

### § 18-1 Purpose; applicability.

[Amended 9-12-1989; 9-26-2000]

A. The purpose of this article is to provide a set of procedures designed to obtain the best possible value for the necessary goods and services purchased by the Town of West Hartford, in accordance with Chapter VI, Section 2(c), (d) and (e) of the Town Charter. These procedures are further designed to take advantage of all prudent purchasing methods and opportunities and provide for the fair and equitable treatment of all persons involved in public purchasing by the Town of West Hartford. Nothing in this article should be construed as contradicting the Charter provisions of the Town of West Hartford. In the event of apparent conflict, the Charter provisions shall prevail.

B. This article applies to the purchase of all supplies, materials, equipment and other commodities and contractual services and construction (hereafter referred to as "products and services") required by any department, agency, board or commission of the Town, irrespective of the source of funds, except the purchase of specialized goods and contractual services for the purpose of instruction by the Board of Education and specialized library materials and services provided for public and staff access by the Library Board. Nothing herein contained shall be construed to prevent the Town Purchasing Agent from serving, to the extent requested, as the Purchasing Agent for all requirements of the Board of Education and Library Board.<sup>[1]</sup>

[1]

*Editor's Note: Former Secs. 2-157 through 2-160, adopted as part of the 1972 Code and which immediately followed this section, were deemed superseded by an ordinance of 3-24-1981 by the former codifier, with former Sec. 2-158 the only section specifically repealed by said ordinance.*

### § 18-2 Purchasing Agent; solicitation and award procedures.

[Amended 12-13-1983; 10-27-1987; 9-12-1989; 6-28-1994; 9-10-1997; 9-26-2000]

A. As provided in the Town Charter and this article, the Purchasing Agent shall serve as the principal public purchasing official for the Town and shall be responsible for the procurement of all products and services for the Town. Subject to the limitations set forth in the Charter and in § 18-2 of this chapter, the Purchasing Agent shall have the authority to approve all contract specifications, prescribe the method of source selection to be utilized in the procurement of all products or services, award all contracts for products and services based on a determination of

the bidder who offers the best value to the Town and shall have the authority necessary to enforce the purchasing provisions of the Charter and this article. In addition, the Purchasing Agent shall have the following specific duties:

(1) Inspect all supplies, material and equipment ordered by and delivered to the Town to ensure compliance with specifications and conditions affecting the purchase thereof or delegate the inspection thereof to such Town officials as are authorized to purchase said supplies, materials or equipment in accord with Subsection B of this section.

(2) Procure and award contracts for, or supervise the procurement of, all products and services needed by the Town and maintain custody and care of all contracts for goods and contractual services to which the Town is a party.

(3) Transfer between offices or sell, trade or otherwise dispose of surplus supplies, materials or equipment belonging to the Town.

(4) Prepare, issue, revise and maintain all bid specifications and establish and maintain programs for specification development and the inspection, testing and acceptance of products and services.

(5) Prepare and adopt operational procedures, in accordance with Chapter 34 of the Town Code of Ordinances, governing the procurement functions of the Town.

(6) Have the authority to declare vendors to be irresponsible bidders and to disqualify them from receiving any business from the Town.

(7) To cancel, in whole or in part, an invitation to bid, a request for proposals or any other solicitation or to reject, in whole or in part, any and all bids or proposals when it is in the best interests of the Town.

(8) To require, when necessary, bid deposits, performance bonds, insurance certificates and labor and material bonds or other similar instruments or security which protect the interests of the Town.

(9) Procure for the Town, School and Library Departments all federal and state tax exemptions to which they are entitled.

(10) Ensure that the Town, School and Library Departments are exempt from state fair trade laws as provided by the Connecticut General Statutes.

(11) Join with other units of government and with private sector organizations in cooperative purchasing plans when the best interests of the Town would be served.

**B. Delegation to other Town officials.** With the approval of the Town Manager, the Purchasing Agent may delegate any portion of the authority to purchase certain products and services to other Town officials if such delegation is deemed necessary and appropriate for the effective and efficient operation of Town government and for the procurement of those items. Such delegation shall be in writing and shall state the specific responsibilities and duties delegated. The Purchasing Agent may revoke such delegation, in writing, at any time. The person to whom such authority is delegated shall be responsible for complying with the requirements of the

Charter, this article and any rules or regulations which may exist relating to the execution of the procurement process.

**C. Methods of source selection.**

(1) In accordance with Chapter VI of the Town Charter, unless otherwise prescribed by law, the Purchasing Agent shall take advantage of all prudent purchasing methods and opportunities available in the marketplace. This includes, but is not limited to, such methods as competitive sealed bids, competitive sealed proposals, competitive negotiation, sole-source procurement, small purchase procedures, credit card procedures, bulk ordering, emergency purchases, multistep bidding, internet purchasing, use of cooperative purchasing plans and public auctions.

(2) In deciding which method to utilize, the Purchasing Agent shall take into consideration the following factors:

- (a) How to obtain the best value for the commodity.
- (b) Whether or not to utilize a fixed-price or fixed-service contract under the circumstances.
- (c) Whether quality, availability or capability is overriding in relation to price.
- (d) Whether the initial installation needs to be evaluated, together with subsequent maintenance and service capabilities and what priority should be given these requirements.
- (e) What benefits are derived from product or service compatibility and standardization and what priority should be given these requirements.
- (f) Whether the marketplace will respond better to a solicitation permitting not only a range of alternative proposals, but evaluation, discussion and negotiation of them before making the award.
- (g) What is practicable and advantageous to the Town.
- (h) The availability of vendors.
- (i) The efficiency of the process.
- (j) The fair and equitable treatment of potential participants.
- (k) The degree to which specifications can be made clear and complete.
- (l) The timeliness of the process to the needs of the Town.

(3) The Purchasing Agent shall prepare and adopt rules and regulations pertaining to the policies and procedures to be followed in using any method of source selection.

**D. Award of contract.** The Purchasing Agent shall award a contract to the vendor who offers the best value to the Town. Best value shall be determined by consideration of some or all of the following factors as deemed appropriate by the Purchasing Agent:

- (1) The quality, availability, adaptability and efficiency of use of the products and services to the particular use required.
- (2) The degree to which the provided products and services meet the specified needs of the Town, including consideration, when appropriate, of the compatibility with and ease of integration with existing products, services or systems.
- (3) The number, scope and significance of conditions or exceptions attached or contained in the bid and the terms of warranties, guaranties, return policies and insurance provisions.



- (4) Whether the vendor can supply the product or service promptly, or within the specified time, without delay or additional conditions.
- (5) The competitiveness and reasonableness of the total cost or price, including consideration of the total life-cycle cost and any operational costs that are incurred if accepted.
- (6) A cost analysis or a price analysis, including specific elements of costs, the appropriate verification of cost or pricing data, the necessity of certain costs, the reasonableness of amounts estimated for the necessary costs, the reasonableness of allowances for contingencies, the basis used for allocation of indirect costs and the appropriateness of allocations of particular indirect costs to the proposed contract.
- (7) A price analysis involving an evaluation of prices for the same or similar products or services. Price analysis criteria include, but are not limited to price submissions of prospective vendors in the current procurement, prior price quotations and contract prices charged by the vendor, prices published in catalogues or price lists, prices available on the open market and in-house estimates of cost.
- (8) Whether or not the vendor can supply the product or perform the service at the price offered.
- (9) The ability, capacity, experience, skill and judgment of the vendor to perform the contract.
- (10) The reputation, character and integrity of the vendor.
- (11) The quality of performance on previous contracts or services to the Town or others.
- (12) The previous and existing compliance by the vendor with laws and ordinances or previous performances relating to the contract or service or on other contracts with the Town or other entities.
- (13) The sufficiency, stability and future solvency of the financial resources of the vendor.
- (14) The ability of the vendor to provide future maintenance and service for the use of the products or services subject to the contract.
- (15) In the case of tie bids, local vendor to receive preference. If all bids received are for the same net total amount or unit price, the quality and service being equal and no evidence of collusion, the contract shall be awarded to a vendor having his or her or principal place of business located in West Hartford.

E. Common specifications and standards.

- (1) In accordance with the Town Charter, all of the Town's departments, agencies, boards and commissions (including the Board of Education and Library Board) shall work together to identify common needs and establish standard specifications for the purchase of goods and contractual services which are commonly used by more than one department, agency, board or commission.
- (2) The Purchasing Agent shall be responsible for identifying goods and contractual services common to the needs of the Town, School Department and libraries and their boards and commissions and for preparing and utilizing standard written specifications submitted for such goods and contractual services. After adoption, each standard specification shall, until revised or rescinded, apply alike in terms and effect to every purchase and contract for said goods or

contractual service. The Town Manager may exempt any using agency of the Town, school or library from use of the goods or contractual services in such standard specification if, in the Town Manager's judgment, it is to the best interest of the Town, school or library to so do.

F. Sole source procurement and brand name specification.

(1) It is the policy of the Town to encourage fair and practicable competition consistent with obtaining the best possible value for the necessary products and services required by the Town. Since the use of sole source procurement or a brand name specification is restrictive, it may be used only when the Purchasing Agent makes a written determination that there is only one practical source for the required product or service or that only the identified brand name item or items will satisfy the Town's needs and the Town Manager concurs with such finding. A requirement for a particular brand name does not justify a sole source procurement if there is more than one potential vendor for that product or service.

(2) Any request by a using agency that procurement be restricted to one potential contractor or be limited to a specific brand name shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

(3) A record of all sole source procurements and brand name specifications shall be maintained. Sole source records shall list each contractor's name, the amount and type of each contract, a listing of the products or services procured under each contract and the effective dates of the contract. Brand name records shall list the brand name specification used, the number of suppliers solicited, the identity of these suppliers, the supplier awarded the contract and the contract price. These records for each fiscal year shall be submitted to the Town Council at the end of each fiscal year.

G. All purchases made and contracts executed by the Purchasing Agent shall be pursuant to a written or electronic requisition from the head of the office, department or agency whose appropriation will be charged, and no contract or order shall be issued to any vendor unless and until the Director of Finance certifies that there is to the credit of such office, department or agency a sufficient unencumbered appropriation balance to pay for the supplies, materials, equipment or contractual services for which the contract or order is to be issued. This requirement may be deferred in the event that an emergency situation requires prompt action by the Purchasing Agent.

H. The responsible head of each department, office, institution, board, commission, agency or instrumentality of the Town, School or Library Departments shall certify, in writing, to the Purchasing Agent the names of such officers or employees who shall be exclusively authorized to sign requests for such respective department, office, institution, board, commission, agency or instrumentality, and all requests for purchases shall be void unless executed by such certified officers or employees and approved by the Purchasing Agent. The term "responsible head," as used herein, shall, in the case of the municipal authorities, be such member, members or committee thereof as shall be designated by appropriate resolution or order adopted by such municipal authorities. No undertaking shall be split into parts, by the requesting agent or

otherwise, so as to avoid complying with any legal obligation or determination of the Purchasing Agent requiring the undertaking to be bid competitively.

I. Professional services. The procurement of professional services shall be exempt from any requirements for competitive sealed bidding. The Town Manager shall have the authority and responsibility to execute professional service contracts on behalf of the Town, except contracts for legal services, which shall be executed by the Corporation Counsel. All contracts for professional services shall be negotiated and executed in accordance with the following guidelines:

(1) A description of the professional services required shall be written for all requests for professional services. They shall be written in such a manner as to describe the requirements to be met, without having the effect of exclusively requiring a proprietary product or service, or procurement from a sole source, unless approved in accordance with the requirements of this article.

(2) The preferred method of obtaining professional services shall be through the use of competitive negotiation. The process used for the solicitation of proposals shall assure that a reasonable and representative number of vendors are given an opportunity to compete. The Town Manager may limit the number of qualified vendors considered and may approve solicitation by invitation or public notice.

(3) The award of a professional services contract shall be done in a manner designed to obtain the best possible value to the Town and with consideration of the factors listed in the subsection of this section titled "Award of contract."<sup>[1]</sup>

[1] *Editor's Note: See Subsection D above.*

(4) Definition.

(a) "Professional services" are defined as:

[1] Work requiring knowledge of an advanced type in a field of study and which frequently require special credentialing, certification or licensure. Such areas include but are not limited to engineers, architects, appraisers, medical service providers, consultants, actuaries, banking services; or

[2] Work that is original and creative in character in a recognized field or artistic endeavor or requires special abilities and depends primarily on a person's invention, imagination or creative talent. Such fields or artistic endeavor include but are not limited to the following: health and fitness, cultural arts, crafts, ice skating, specialty area instructors; and

[3] Work that requires consistent exercise of independent discretion and judgment to perform according to their own methods and without being subject to the control of the Town except as to the result of the work.

(b) Professional service providers shall not be dependent on the Town as their sole client and must be clearly considered an independent contractor as opposed to an employee as defined by state and federal laws, regulations and court decisions.

J. Custody of contracts. All contracts for goods, contractual services and professional services to which the Town is a party shall be kept in the office of the Purchasing Agent and shall be under the care and custody of the Purchasing Agent unless the Purchasing Agent has delegated the authority to take custody of such a contract to another Town official in accord with Subsection B of this section. All other contracts to which the Town is a party or to which any officer or board, bureau or commission of the Town, acting in behalf of the Town, is a party shall be kept on file in the Town Clerk's office and shall be under the care and custody of the Town Clerk. When any officer, board, bureau or commission of said Town shall require any original contract in which the Town is interested, as aforesaid, the contract shall not be taken from the Town Clerk's or Purchasing Agent's office until such officer, board, bureau or commission has given a receipt therefor, and a copy of such contract shall be filed with the Town Clerk or Purchasing Agent as soon as the same can be made. The above provisions shall not apply when any such contract is needed for temporary use in the Town building and is returned on the same day that it is taken.

§ 18-2.1 Authority to debar.

[Added 9-10-1997; amended 2-24-1998]

A. Authority. After reasonable notice to the person involved and reasonable opportunity for that person to be heard, the Purchasing Agent, after consultation with the appropriate library, Town, or school agency and the Corporation Counsel, shall have authority to debar a person for cause from consideration for award of contracts. The debarment shall not be for a period of more than three years. The authority to debar shall be exercised in accordance with procedures promulgated by the Purchasing Agent.

B. Causes for debarment. The causes for debarment include the following:

- (1) Conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract, or in the performing of such contract or subcontract;
- (2) Conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property or any other offense indicating a lack of business integrity or business honesty which currently, seriously and directly affects responsibility as a Town contractor;
- (3) Conviction under state or federal antitrust statutes arising out of the submission of bids or proposals;
- (4) Violation of contract provisions, as set forth below, of a character which is regarded by the Purchasing Agent, after consulting with the head of the operating department, to be so serious as to justify debarment action:
  - (a) Failure without good cause to perform in accordance with the specifications or within the time limit provided in the contract; or

(b) A recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more contracts, provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the contractor shall not be considered to be a basis for debarment; or

(c) A history of delayed payments to or nonpayment to subcontractors, provided that failure to pay a subcontractor as a result of a pending dispute with regard to the work performed or amounts due shall not be considered for this purpose during the pendency of proceedings to resolve the dispute;

(5) Determination by the State Department of Labor that the contractor has not complied with the requirements of law relating to the payment of wages or other related matters;

(6) Any other cause the Purchasing Agent determines to be so serious and compelling as to affect responsibility as a Town contractor, including debarment by another government entity for any reasonable cause.

C. Decision. The Purchasing Agent shall provide the person with notice of his or her proposed written decision to debar. The proposed decision shall state the reasons for the action taken.

D. Notice of decision. The proposed decision under Subsection B (3) of this section shall be final and conclusive unless the person requests a meeting with the Purchasing Agent within 10 days of the mailing of the notice, which meeting shall be held within seven days of the request.

Following said meeting, the Purchasing Agent shall review his or her proposed decision and shall notify by mail the person requesting the hearing of his or her final decision within seven days of said meeting.

#### § 18-3 Town insurance; duties of Town Manager.

[Added 10-10-1972; amended 1-25-1983; 6-28-1994; 10-10-1995]

A. It shall be the exclusive responsibility and duty of the Town Manager or his/her designee to contract for services of a broker to assist the Town in the procurement of insurance coverage, and said broker shall be designated as the "agent of record." In pursuit of this responsibility, the Town Manager or his/her designee shall solicit proposals for professional services from business firms licensed to perform, and otherwise capable of performing, such services in the State of Connecticut. Such proposals shall be based upon a comprehensive set of specifications included in a request for proposals (RFP) to be issued by the Town Manager or his/her designee as provided by this article, and said specifications shall include, at a minimum:

(1) A resume of the qualifications of the proposer.

(2) Documentation of the credentials of employees to be assigned to administer the account, including such areas as claims handling, loss prevention and safety administration.

(3) Evidence that the proposer is a full-service organization with expertise in and market access to all aspects of the Town's insured program and its retentions, as well as fully self-insured risks.

B. Proposals shall be made for a minimum period of three years, with an option to extend for two additional years at the discretion of the Town Manager or his/her designee. The final terms of service shall be set forth in contract form.

C. The procedure for the awarding of the contract for services of the agent of record shall be those customary for selecting a professional service firm as well as those outlined in this article. Remuneration shall be based upon the fee for services set forth in the proposals, which shall include estimates of elements of the total remuneration which may be drawn from commissions, where applicable, as well as separately proposed pricing for the administrative support services with respect to both insured and self-insured Town programs. The latter fees shall be stated on an hourly basis for services rendered.

Should any conflict between language in this document and language in the West Hartford Procurement Ordinances Sec. 18-1 through 18-3; language in the Procurement Ordinances shall supersede language in this document.

#### § 18-4 Capital project memorandum.

[Added 11-15-1977]

At least one week prior to the public hearing on any capital project requiring the issuance of bonds or notes by the Town of West Hartford, the Town Manager shall submit to the Council a reasonably detailed briefing memorandum outlining the effect of the project on surrounding property owners and evaluating the environmental impact of the project, both during construction and upon completion. Said briefing memorandum shall include, but not be limited to, such matters as drainage, traffic, air pollution and vegetation.

### Connecticut Laws/Regulations

Procurement Authority: C.G.S. 4a-51

Competitive Bidding Requirements: C.G.S. 4a-57

Award of Contracts: C.G.S. 4a-59

### Definitions

#### **Bid**

An offer submitted in response to an Invitation for Bid.

#### **Construction**

The process of building, altering, improving, or demolishing any public structure, building, or other public improvements of any kind to any public real property, including but not limited to the preventative maintenance of existing structures, buildings, and streets.

#### **Contract Signature Authority**

The authority of a Town employee to sign a contract as an authorized agent of the Town.

#### **Filed**

Delivery to the Procurement Officer: a time/date stamp affixed to a document by the Purchasing Manager, their designee, or approved electronic method shall be determinative of the time of delivery for purposes of filing.

#### **Governing Instruments**

Those legal documents that establish the existence of an organization and define its powers including articles of incorporation or association, constitution, charter, and by-laws.

#### **Interested Party**

An actual or prospective bidder or offeror whose economic interest may be affected substantially and directly by the issuance of a solicitation, the award of a contract, or by the failure to award a contract. Whether an actual or prospective bidder or offeror has an economic interest will depend upon the circumstances of each case.

#### **Offer Acceptance Time**

The time during which the Town may accept an offer of a bid or proposal.

#### **Offeror**

The person/entity who submits a proposal in response to a request for proposals (RFP). One who makes an offer in response to a solicitation.

#### **Procurement Officer**

The person(s) holding the position of Buyer or Contracting Agent within the Purchasing Division.

#### **Procurement**

The purchasing, renting, leasing, or otherwise obtaining any supply or service. The term includes all functions that pertain to the obtaining of any supply or service, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

#### **Procurement Card (P-Card)**

A credit card issued by the Town Purchasing and Materials Management Division as an alternative payment method for designated employees to use at vendors/suppliers and any other authorized location the Town selects.

#### **Proposal**

An offer submitted in response to a Request for Proposal.

**Service**

The furnishing of labor, time, or effort by a contractor, not involving the delivery of a specific end product other than reports which are merely incidental to the required performance. This term does not include "Professional Services" such as architects, lawyers, certified public accountants, consultants, appraisers, and engineers.

**Solicitation**

Invitation for Bids, a Request for Technical Offers, a Request for Proposals, a Request for Quotations, or any other invitation or request by which the Town invites a person to participate in a procurement.

**Specification**

Any description of the physical or functional characteristics, or of the nature of a supply or service item. The term may include a description of any requirements for inspecting, testing or preparing a supply, or service item for delivery.

**Supply**

All personal property.

**Technical Offer**

Unpriced written information from a prospective contract stating the manner in which the prospective contractor intends to perform certain work, its qualifications, and its terms and conditions.



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§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is un-

able or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor

selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and  
(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of

work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;  
(2) Requiring unnecessary experience and excessive bonding;  
(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and

standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(3) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(4) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

**§ 200.320 Methods of procurement to be followed.**

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction. If the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present.

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an

offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(a) (Reserved)

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

**§ 200.323 Contract cost and price.**

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

**§ 200.324 Federal awarding agency or pass-through entity review.**

(a) The non-Federal entity must make available, upon request of the

Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be

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reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

## §200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract

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to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

## §200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

## PERFORMANCE AND FINANCIAL MONITORING AND REPORTING

## §200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

## 300.328 Monitoring and reporting program performance.

(a) *Monitoring by the non-Federal entity.* The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also §200.331 Requirements for pass-through entities.

(b) *Non-construction performance reports.* The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance

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every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

**SUBRECIPIENT MONITORING AND MANAGEMENT**

**§200.330 Subrecipient and contractor determinations.**

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(A) *Subrecipients.* A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See §200.32 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- (1) Determines who is eligible to receive what Federal assistance;
- (2) Has its performance measured in relation to whether objectives of a Federal program were met;
- (3) Has responsibility for programmatic decision making;
- (4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- (5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) *Contractors.* A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use

and creates a procurement relationship with the contractor. See §200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

- (1) Provides the goods and services within normal business operations;
- (2) Provides similar goods or services to many different purchasers;
- (3) Normally operates in a competitive environment;
- (4) Provides goods or services that are ancillary to the operation of the Federal program; and
- (5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) *Use of judgment in making determination.* In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

**§200.331 Requirements for pass-through entities.**

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

- (1) Federal Award Identification.
- (i) Subrecipient name (which must match registered name in DUNS);
- (ii) Subrecipient's DUNS number (see §200.32 Data Universal Numbering System (DUNS) number).
- (iii) Federal Award Identification Number (FAIN);

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(iv) Federal Award Date (see § 200.39 Federal award date);

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action;

(vii) Total Amount of Federal Funds Obligated to the subrecipient;

(viii) Total Amount of the Federal Award;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official;

(xi) CFDA Number and Name: the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs).

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award.

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in § 200.414 Indirect (F&A) costs, paragraph (b) of this part.

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this section. §§ 200.300 Statutory and national policy requirements

through 200.309 Period of performance, and Subpart F—Audit Requirements of this part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraph (c) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in § 200.207 Specific conditions.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and programmatic reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient



from the pass-through entity as required by § 200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in § 200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equalled or exceeded the threshold set forth in § 200.502 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in § 200.338 Remedies for noncompliance of this part and in program regulations.

**§ 200.332 Fixed amount subawards.**

With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in § 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

**RECORD RETENTION AND ACCESS**

**§ 200.333 Retention requirements for records.**

Financial records, supporting documents, statistical records, and all other non-Federal entity records perti-

nent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer

usage chargeback rates or composite fringe benefit rates).

(1) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

#### § 200.334 Requests for transfer of records.

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

#### § 200.335 Methods for collection, transmission and storage of information.

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there

is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

#### § 200.336 Access to records.

(a) *Records of non-Federal entities.* The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) *Expiration of right of access.* The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

#### § 200.337 Restrictions on public access to records.

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the

## §200.336

records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13526 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under §200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

### REMEDIES FOR NONCOMPLIANCE

#### §200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in §200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

(a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.

(b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(c) Wholly or partly suspend or terminate the Federal award.

(d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency

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regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

#### §200.339 Termination.

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award:

(2) By the Federal awarding agency or pass-through entity for cause;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

#### §200.340 Notification of termination requirement.

(a) The Federal agency or pass-through entity must provide to the

## OMB Guidance

## § 200.343

non-Federal entity a notice of termination.

(b) If the Federal award is terminated for the non-Federal entity's failure to comply with the Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state that the termination decision may be considered in evaluating future applications received from the non-Federal entity.

(c) Upon termination of a Federal award, the Federal awarding agency must provide the information required under FFATA to the Federal Web site established to fulfill the requirements of FFATA, and update or notify any other relevant governmentwide systems or entities of any indications of poor performance as required by 41 U.S.C. 417b and 31 U.S.C. 3321 and implementing guidance at 2 CFR part 77. See also the requirements for Suspension and Debarment at 2 CFR part 180.

### § 200.341 Opportunities to object, hearings and appeals.

Upon taking any remedy for non-compliance, the Federal awarding agency must provide the non-Federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action. In accordance with written processes and procedures published by the Federal awarding agency, the Federal awarding agency or pass-through entity must comply with any requirements for hearings, appeals or other administrative proceedings which the non-Federal entity is entitled under any statute or regulation applicable to the action involved.

### § 200.342 Effects of suspension and termination.

Costs to the non-Federal entity resulting from obligations incurred by the non-Federal entity during a suspension or after termination of a Federal award or subaward are not allowable unless the Federal awarding agency or pass-through entity expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:

(a) The costs result from obligations which were properly incurred by the

non-Federal entity before the effective date of suspension or termination, are not in anticipation of it; and

(b) The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

## CLOSEOUT

### § 200.343 Closeout.

The Federal agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. This section specifies the actions the non-Federal entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

(a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by or the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.

(b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.

(c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for allowable reimbursable costs under the Federal award being closed out.

(d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that is not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A-129 and see § 200.346 Collection of amounts due for requirements regarding unreturned amounts that become delinquent debts.

## §200.344

(e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with §§200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property.

(g) The Federal awarding agency or pass-through entity should complete all closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports

### POST-CLOSEOUT ADJUSTMENTS AND CONTINUING RESPONSIBILITIES

§200.344 Post-closeout adjustments and continuing responsibilities.

(a) The closeout of a Federal award does not affect any of the following:

(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

(3) Audit requirements in Subpart F—Audit Requirements of this part.

(4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this part, §§200.310 Insurance Coverage through 200.316 Property trust relationship.

(5) Records retention as required in Subpart D—Post Federal Award Requirements of this part, §§200.333 Retention requirements for records through 200.337 Restrictions on public access to records.

(b) After closeout of the Federal award, a relationship created under the Federal award may be modified or

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ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

### COLLECTION OF AMOUNTS DUE

§200.345 Collection of amounts due.

(a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements;

(2) Withholding advance payments otherwise due to the non-Federal entity; or

(3) Other action permitted by Federal statute.

(b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

### Subpart E—Cost Principles

#### GENERAL PROVISIONS

§200.400 Policy guide.

The application of these cost principles is based on the fundamental premises that:

(a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.

(b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with



EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

OFFICE OF FEDERAL  
FINANCIAL MANAGEMENT

June 20, 2018

M-18-18

MEMORANDUM FOR CHIEF FINANCIAL OFFICERS AND HEADS OF SMALL EXECUTIVE AGENCIES

FROM:

Tim Soltis

Deputy Controller, Office of Federal Financial Management

SUBJECT:

Implementing Statutory Changes to the Micro-Purchase and the Simplified Acquisition Thresholds for Financial Assistance

In accordance with recent statutory changes set forth in the National Defense Authorization Acts (NDAA) for Fiscal Years 2017 and 2018, this memorandum raises the threshold for micro-purchases under Federal financial assistance awards to \$10,000, and raises the threshold for simplified acquisitions to \$250,000 for all recipients. Further, it implements an approval process for certain institutions that want to request micro-purchase thresholds higher than \$10,000. Agencies are required to implement these changes in the terms and conditions of their awards, and recipients of existing Federal financial assistance awards may implement them in their internal controls.

Background

This memorandum applies to all Federal agencies, as defined at 5 U.S.C. § 551(1), that award grants or cooperative agreements. It implements changes to the micro-purchase and simplified acquisition thresholds for financial assistance under the NDAA for Fiscal Year (FY) 2017 and FY2018. The micro-purchase threshold refers to purchases of supplies or services using simplified acquisition procedures, not to exceed an established amount pursuant to the Office of Management and Budget (OMB) Governmentwide Guidance for Grants and Agreements ("Uniform Guidance") at 2 C.F.R. § 200.67 (Micro-purchase). The simplified acquisition threshold refers to purchases of property or services using small purchase methods not to exceed an established amount pursuant to 2 C.F.R. § 200.88 (Simplified acquisition threshold). For Federal financial assistance awards, these purchases are acquired for use by a Federal program. The NDAA for FY2017 increased the micro-purchase threshold from \$3,500 to \$10,000 for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes (41 U.S.C. § 1908). The NDAA for FY2018 increases the micro-purchase threshold to \$10,000 for all recipients and also increases the simplified acquisition threshold from \$100,000 to \$250,000 for all recipients.

Implementing the NDAA for FY2017

Section 217(b) of the NDAA for FY2017 raises the micro-purchase threshold to \$10,000 for procurements under grants and cooperative agreements for institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes.<sup>1</sup>

<sup>1</sup> Pub. L. No. 114-328 (codified at 41 U.S.C. § 1902(a)(2)).

The NDAA for FY2017 also establishes an interim uniform process by which these recipients can request and Federal agencies can approve requests to apply a higher micro-purchase threshold. Specifically, the 2017 NDAA allows a threshold above \$10,000 if approved by the head of the relevant executive agency. For purposes of this approval, the institution's cognizant Federal agency for indirect cost rates will be the relevant executive agency as defined in 2 C.F.R. § 200.19 (Cognizant agency for indirect costs). To receive a higher threshold, the institution must either have "clean single audit findings" (i.e., in accordance with 2 C.F.R. § 200.520 - Criteria for a low-risk auditee), have an acceptable internal institutional risk assessment, or the higher threshold must be consistent with State law for public institutions.

Agencies should reflect this change through policy or terms and conditions in awards for those institutions. The effective date for this change was when the NDAA for FY2017 was signed into law on December 23, 2016. OMB intends to revise the Uniform Guidance to conform with the law.<sup>2</sup>

#### **Process for Requesting a Higher Threshold Under the NDAA for FY2017**

Requests for approval should be submitted to the institution's cognizant Federal agency for indirect cost rates; however, institutions should contact the agency before sending the request to determine the correct point of contact. The cognizant Federal agency will assign review of the request to the appropriate office within the agency to determine whether to approve, and will maintain records and justification of all approvals. The request should include the threshold level being requested and the justification(s) for it based on the criteria above per Section 217(b) of the NDAA for FY2017.

#### **Implementing the NDAA for FY2018**

This memorandum also implements provisions of the NDAA for FY 2018, Pub. L. No. 115-91, which became law on December 12, 2017. Specifically, section 806 raised the micro-purchase threshold from \$3,500 to \$10,000, and section 805 raised the simplified acquisition threshold from \$100,000 to \$250,000. Pursuant to 2 C.F.R. § 200.67 (Micro-purchase) and 2 C.F.R. § 200.88 (Simplified acquisition threshold), these higher thresholds are not effective until implemented in the Federal Acquisition Regulation (FAR) at 48 C.F.R. Subpart 2.1 (Definitions).<sup>3</sup>

In order to allow maximum flexibility for grant recipients in light of the changes to the NDAA for FY2018, OMB is granting an exception allowing recipients to use the higher threshold of \$10,000 for micro-purchases and \$250,000 for simplified acquisitions in advance of revisions to the FAR at 48 C.F.R. Subpart 2.1 and the Uniform Guidance. Pursuant to 2 C.F.R. § 200.102 (Exceptions), OMB may allow exceptions to the Uniform Guidance when exceptions are not prohibited by statute. The exception takes effect upon the date of issuance of this memo. Agencies should apply this exception to all recipients. Recipients should document any change based on this exception in accordance with 2 C.F.R. § 200.318 (General procurement standards).

If you have any questions regarding this memorandum, please contact Mary Tutman at [Mary.E.Tutman@omb.eop.gov](mailto:Mary.E.Tutman@omb.eop.gov) or Gil Tran at [Hai\\_M.\\_Tran@omb.eop.gov](mailto:Hai_M._Tran@omb.eop.gov).

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<sup>2</sup> The American Innovation and Competitiveness Act, Pub. L. No. 114-329, § 207(b) (2017) states that the Uniform Guidance shall be revised to conform with the requirements concerning the micro-purchase threshold.

<sup>3</sup> Codified at 41 U.S.C. § 1902(f).

